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10 ULTRA CLEAN TECHNOLOGY SYSTEMS
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11 **UNITED STATES DISTRICT COURT**
12
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

15 ULTRA CLEAN TECHNOLOGY SYSTEMS
16 AND SERVICE, INC.,

17 Plaintiff,

18 v.

19 CELERITY, INC.,

20 Defendant.

CASE NO. 05-CV-03560 MMC

[RELATED CASE: 05-CV-04374 MMC]

STIPULATION AND ORDER TO
CONSOLIDATE ACTIONS

21 The parties in the above-referenced action, as well as the parties in related case 05-CV-
22 04374 MMC, by and through their attorneys of record, Paul J. Andre of Perkins Coie, LLP, for
23 Ultra Clean Technology Systems and Services, Inc. ("Ultra Clean Systems") and Ultra Clean
24 Holdings, Inc. ("Ultra Clean Holdings"), and Keith L. Slenkovich of Thelen Reid & Priest, LLP,
25 for Celerity, Inc. ("Celerity"), hereby stipulate and request this Court to make an order
26 consolidating the following two matters: Ultra Clean Technology Systems and Services, Inc. v.
27
28

1 Celerity, Inc., 05-CV-03560 MMC, and Celerity, Inc. v. Ultra Clean Holdings, Inc. et al., 05-
2 CV-04374 MMC.

3 This stipulation is made on the following grounds: Prior to the filing of either litigation,
4 Celerity and Ultra Clean Systems were involved in a course of correspondence through which
5 Celerity advised Ultra Clean Systems of the patents in suit. On September 2, 2005, Ultra Clean
6 Systems filed in United States District Court for the Northern District of California Case No. C-
7 05-03560 BZ, *Ultra Clean Technology Systems and Service, Inc. v. Celerity, Inc.* (the "California
8 Action"), an action for declaration of invalidity and noninfringement for these patents, namely
9 U.S. Patent No. 6,142,539, U.S. Patent No. 6,189,570, U.S. Patent No. 6,192,938, U.S. Patent
10 No. 6,293,310, U.S. Patent No. 6,394,138, U.S. Patent No. 6,435,215, and U.S. Patent No.
11 6,474,700 (collectively, the "patents in suit").

12 On September 13, 2005, prior to being served with the California Action, Celerity filed
13 United States District Court, District of Delaware Case No. 05-668 (KAJ) *Celerity, Inc. v. Ultra*
14 *Clean Holdings, Inc., and Ultra Clean Technology Systems and Service, Inc.* (the "Delaware
15 Action"), alleging that Ultra Clean Systems and Ultra Clean Holdings are infringing these
16 patents in suit.

17 The parties agreed that in order to avoid duplication of efforts, the Delaware Action
18 should be transferred to the District Court for the Northern District of California and
19 consolidated with Ultra Clean's declaratory judgment action, and filed a Joint Motion To
20 Transfer the Delaware Action on October 14, 2005. On October 17, 2005, the District of
21 Delaware granted the Joint Motion and ordered that the Delaware Action be transferred to the
22 Northern District of California.

23 On October 10, 2005, Celerity filed its Notice of Pendency of Other Action or Proceeding
24 ("Notice of Pendency") in accordance with Civil Local Rule 3-13, noting the parties' agreement.
25 On November 1, 2005, an order holding that the two above-mentioned cases were related was
26 issued by this Court, and Case No. 05-CV-04374 MEJ was reassigned to Judge Maxine M.
27 Chesney.

Both parties respectfully submit that the two actions, the Delaware Action, Celerity, Inc. v. Ultra Clean Holding, Inc. et al., 05-CV-04374 MMC, and the California Action, Ultra Clean Technology Systems and Services, Inc. v. Celerity, Inc., 05-CV-03560 MMC, should be consolidated. Consolidation of these two actions would avoid conflicts, conserve resources, and promote an efficient determination of this action. The parties have not been able to agree upon the plaintiff/defendant alignment of the parties in the consolidated cases, and anticipate that a motion will be filed prior to the initial case management conference to determine the proper alignment of the parties.

PERKINS COIE LLP

THELEN REID & PRIEST LLP

By /s/
Paul J. Andre
Attorneys for Ultra Clean Technology
Systems and Service, Inc. and Ultra Clean
Holdings, Inc.

By /s/
Keith L. Slenkovich
Attorneys for Celerity, Inc.

Dated: December 8, 2005

Dated: December 8, 2005

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED that the Court hereby consolidates Celerity, Inc. v. Ultra Clean Holding, Inc. et al., 05-CV-04374 MMC and Ultra Clean Technology Systems and Services, Inc. v. Celerity, Inc., 05-CV-03560 MMC.

Pursuant to the usual practice of the Clerk's Office, all future filings shall be in the earlier-filed action (05-CV-03560 MMC).

Dated: December 12, 2005



MAXINE M. CHESNEY
United States District Judge